

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 523**  
94TH GENERAL ASSEMBLY

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Reported from the Committee on Financial and Governmental Organizations and Elections, March 15, 2007, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

2131S.02C

TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal sections 338.035, 338.220, and 340.216, RSMo, and to enact in lieu thereof four new sections relating to the board of pharmacy.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 338.035, 338.220, and 340.216, RSMo, are repealed  
2 and four new sections enacted in lieu thereof, to be known as sections 338.035,  
3 338.146, 338.220, and 340.216, to read as follows:

338.035. 1. Every person who desires to be licensed as an intern  
2 pharmacist shall file with the board of pharmacy an application, on a form to be  
3 provided by the board of pharmacy.

4 2. If an applicant for an intern pharmacist license has complied with the  
5 requirements of this section and with the rules and regulations of the board of  
6 pharmacy and is not denied a license on any of the grounds listed in section  
7 338.055, the board of pharmacy may issue to him a license to practice as an  
8 intern pharmacist [for a period not to exceed one year].

9 3. Any intern pharmacist who wishes to renew his license shall within  
10 thirty days before the license expiration date file an application for a renewal.

11 4. A licensed intern pharmacist may practice pharmacy only under the  
12 direct supervision of a pharmacist licensed by the board.

13 5. The board of pharmacy shall promulgate rules and regulations which  
14 shall further regulate the duties and restrictions of intern pharmacists and shall  
15 set the amount of the fees which shall accompany the license and renewal  
16 applications for intern pharmacists.

17 6. [No rule or portion of a rule promulgated under the authority of this

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18 chapter shall become effective unless it has been promulgated pursuant to the  
19 provisions of section 536.024, RSMo.] Any rule or portion of a rule, as that  
20 term is defined in section 536.010, RSMo, that is created under the  
21 authority delegated in this section shall become effective only if it  
22 complies with and is subject to all of the provisions of chapter 536,  
23 RSMo, and, if applicable, section 536.028, RSMo. This section and  
24 chapter 536, RSMo, are nonseverable and if any of the powers vested  
25 with the general assembly pursuant to chapter 536, RSMo, to review, to  
26 delay the effective date, or to disapprove and annul a rule are  
27 subsequently held unconstitutional, then the grant of rulemaking  
28 authority and any rule proposed or adopted after August 28, 2007, shall  
29 be invalid and void.

338.146. 1. The board may issue a cease and desist order to stop  
2 a person from engaging or offering to engage in an unauthorized  
3 practice. The order must state the reason for its issuance. If, within  
4 fifteen days after service of the order, the subject of the order fails to  
5 appeal in writing to the circuit court of Cole County, the county in  
6 which the conduct occurred, or the county in which the defendant  
7 resides, the cease and desist order becomes final.

8 2. The board may enforce its cease and desist order by applying  
9 to the circuit court of Cole County, the county in which the conduct  
10 occurred, or the county in which the defendant resides for an order  
11 upon any person who shall fail to obey a cease and desist order to show  
12 cause why such cease and desist order should not be enforced, which  
13 such order and a copy of the application therefore shall be served upon  
14 the person in the same manner as a summons in a civil action. If the  
15 circuit court, shall, after a hearing, determine that the cease and desist  
16 order should be sustained and enforced, such court shall proceed to  
17 enforce the cease and desist order in the same manner as though the  
18 order had been issued by the court.

19 3. The phrase "unauthorized practice" as defined in this section  
20 shall mean the practice of pharmacy or wholesale drug distribution by  
21 a person or entity who holds no license, certification, registration, or  
22 permit from the Missouri board of pharmacy.

338.220. 1. It shall be unlawful for any person, copartnership,  
2 association, corporation or any other business entity to open, establish, operate,  
3 or maintain any pharmacy as defined by statute without first obtaining a permit

4 or license to do so from the Missouri board of pharmacy. The following classes  
5 of pharmacy permits or licenses are hereby established:

- 6 (1) Class A: Community/ambulatory;
- 7 (2) Class B: Hospital outpatient pharmacy;
- 8 (3) Class C: Long-term care;
- 9 (4) Class D: Nonsterile compounding;
- 10 (5) Class E: Radio pharmaceutical;
- 11 (6) Class F: Renal dialysis;
- 12 (7) Class G: Medical gas;
- 13 (8) Class H: Sterile product compounding;
- 14 (9) Class I: Consultant services;
- 15 (10) Class J: Shared service;
- 16 (11) Class K: Internet;
- 17 **(12) Class L: Veterinary.**

18 2. Application for such permit or license shall be made upon a form  
19 furnished to the applicant; shall contain a statement that it is made under oath  
20 or affirmation and that its representations are true and correct to the best  
21 knowledge and belief of the person signing same, subject to the penalties of  
22 making a false affidavit or declaration; and shall be accompanied by a permit or  
23 license fee. The permit or license issued shall be renewable upon payment of a  
24 renewal fee. Separate applications shall be made and separate permits or  
25 licenses required for each pharmacy opened, established, operated, or maintained  
26 by the same owner.

27 3. All permits, licenses or renewal fees collected pursuant to the  
28 provisions of sections 338.210 to 338.370 shall be deposited in the state treasury  
29 to the credit of the Missouri board of pharmacy fund, to be used by the Missouri  
30 board of pharmacy in the enforcement of the provisions of sections 338.210 to  
31 338.370, when appropriated for that purpose by the general assembly.

32 **4. Class L: Veterinary permit shall not be construed to prohibit**  
33 **or interfere with any legally registered practitioner of veterinary**  
34 **medicine in the compounding or dispensing of their own prescriptions.**

340.216. 1. It is unlawful for any person not licensed as a veterinarian  
2 under the provisions of sections 340.200 to 340.330 to practice veterinary  
3 medicine or to do any act which requires knowledge of veterinary medicine for  
4 valuable consideration, or for any person not so licensed to hold himself or herself  
5 out to the public as a practitioner of veterinary medicine by advertisement, the

6 use of any title or abbreviation with the person's name, or otherwise; except that  
7 nothing in sections 340.200 to 340.330 shall be construed as prohibiting:

8 (1) Any person from gratuitously providing emergency treatment, aid or  
9 assistance to animals where a licensed veterinarian is not available within a  
10 reasonable length of time if the person does not represent himself or herself to be  
11 a veterinarian or use any title or degree appertaining to the practice thereof;

12 (2) Acts of a person who is a student in good standing in a school or  
13 college of veterinary medicine or while working as a student preceptee, in  
14 performing duties or functions assigned by the student's instructors, or while  
15 working under the appropriate level of supervision of a licensed veterinarian as  
16 is consistent with the particular delegated animal health care task as established  
17 by board rule, and acts performed by a student in a school or college of veterinary  
18 medicine recognized by the board and performed as part of the education and  
19 training curriculum of the school under the supervision of the faculty. The  
20 unsupervised or unauthorized practice of veterinary medicine, even though on the  
21 premises of a school or college of veterinary medicine, is prohibited;

22 (3) Personnel employed by the United States Department of Agriculture  
23 or the Missouri department of agriculture from engaging in animal disease,  
24 parasite control or eradication programs, or other functions specifically required  
25 and authorized to be performed by unlicensed federal or state officials under any  
26 lawful act or statute, except that this exemption shall not apply to such persons  
27 not actively engaged in performing or fulfilling their official duties and  
28 responsibilities;

29 (4) Any merchant or manufacturer from selling drugs, medicine,  
30 appliances or other products used in the prevention or treatment of animal  
31 diseases if such drug, medicine, appliance or other product is not marked by the  
32 appropriate federal label. Such merchants or manufacturers shall not, either  
33 directly or indirectly, attempt to diagnose a symptom or disease in order to advise  
34 treatment, use of drugs, medicine, appliances or other products;

35 (5) The owner of any animal or animals and the owner's full-time  
36 employees from caring for and treating any animals belonging to such owner, with  
37 or without the advice and consultation of a licensed veterinarian, provided that  
38 the ownership of the animal or animals is not transferred, or employment  
39 changed, to avoid the provisions of sections 340.200 to 340.330; however, only a  
40 licensed veterinarian may immunize or treat an animal for diseases which are  
41 communicable to humans and which are of public health significance, except as

42 otherwise provided for by board rule;

43 (6) Any graduate of any accredited school of veterinary medicine while  
44 engaged in a veterinary candidacy program or foreign graduate from a  
45 nonaccredited school or college of veterinary medicine while engaged in a  
46 veterinary candidacy program or clinical evaluation program, and while under the  
47 appropriate level of supervision of a licensed veterinarian performing acts which  
48 are consistent with the particular delegated animal health care task;

49 (7) State agencies, accredited schools, institutions, foundations, business  
50 corporations or associations, physicians licensed to practice medicine and surgery  
51 in all its branches, graduate doctors of veterinary medicine, or persons under the  
52 direct supervision thereof from conducting experiments and scientific research on  
53 animals in the development of pharmaceuticals, biologicals, serums, or methods  
54 of treatment, or techniques for the diagnosis or treatment of human ailments, or  
55 when engaged in the study and development of methods and techniques directly  
56 or indirectly applicable to the problems of the practice of veterinary medicine;

57 (8) Any veterinary technician, duly registered by, and in good standing  
58 with, the board from administering medication, appliances or other products for  
59 the treatment of animals while under the appropriate level of supervision as is  
60 consistent with the delegated animal health care task; and

61 (9) A consulting veterinarian while working in a consulting capacity in  
62 Missouri while under the immediate supervision of a veterinarian licensed and  
63 in good standing under sections 340.200 to 340.330.

64 2. Nothing in sections 340.200 to 340.330 shall be construed as limiting  
65 the board's authority to provide other exemptions or exceptions to the  
66 requirements of licensing as the board may find necessary or appropriate under  
67 its rulemaking authority.

68 **3. Notwithstanding any other provision of sections 340.200 to**  
69 **340.330 or any rule to the contrary, nothing shall prohibit a licensed**  
70 **physical therapist or physical therapist's assistant from providing**  
71 **rehabilitation services on animals pursuant to a written prescription**  
72 **of a licensed veterinarian, provided the supervising veterinarian is**  
73 **immediately available to the physical therapist or physical therapist's**  
74 **assistant for consultation, assistance, or intervention either personally**  
75 **or via telecommunications.**